



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
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Candace Havens  
Director

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**MEMORANDUM**

Public Hearing Date: October 11, 2011  
Land Use Action Date: November 22, 2011  
Board of Aldermen Action Date: December 5, 2011  
90-Day Expiration Date: December 5, 2011

DATE: October 7, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
Eve Tapper, Chief Planner for Current Planning  
Alexandra Ananth, Senior Land Use Planner

ET

SUBJECT: **Petitioner #248-11**, of Mark Shoham for a Special Permit/Site Plan Approval to legalize an existing accessory apartment with associated landscaping/lighting/parking waivers at **308 Homer Street**, Ward 6, on land known as SBL 64, 7, 33, containing ≈14, 881 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec 3-24, 30-23, 30-8(d)(2), 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

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The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



## **EXECUTIVE SUMMARY**

The subject property consists of a 14,881 square foot lot located on the corner of Homer and Walnut Streets. The lot is improved with a single-family dwelling and the petitioner is proposing to legalize an existing accessory apartment located in a portion of the walk-out basement. The property does not meet the required lot size for an accessory apartment through the administrative review process and therefore must obtain a special permit from the Board of Aldermen. Required lot size is 15,000 square feet for the administrative review process and the lot is 119 square feet less.

The proposed accessory apartment meets all of the requirements except for lot size and the petitioner is also seeking a waiver for the required landscape screening of the parking area. The proposed apartment is 685 square feet and located in the lower level of this 3,200 square foot ranch-style house. Existing screening of the parking area should be sufficient so as not to negatively impact the immediate neighbors.

### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

When reviewing this petition, the Board should consider if the following findings apply:

- The site is large enough to accommodate the proposed accessory apartment and three on-site parking spaces.
- Existing screening of parking from the street is sufficient to maintain an attractive streetscape.

### **II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

#### **A. Neighborhood and Zoning**

The subject property is located at the corner of Homer and Walnut Streets in a Single Residence 2 district. Most of the neighborhood consists of single-family residences with the exception of City Hall, Newton Free Library, Newton Cemetery, and Newton Memorial Art Company, which are all located on adjacent corners.

#### **B. Site**

The 14,881 square foot lot contains a single-family residence with an attached two-car garage. Although the garage is accessed off Homer Street, there is a second curb cut on Walnut Street. The lot is relatively level and contains a low brick wall. A portion of the rear yard is fenced. There are multiple mature trees on the lot.

### **III. PROJECT DESCRIPTION AND ANALYSIS**

A. Land Use

The petitioner is proposing to legalize an existing accessory apartment located in a portion of his walk-out basement.

B. Building and Site Design

The petitioner is not proposing any changes to the single-family residence or site.

C. Parking and Circulation

Parking for the residence occurs in an attached two-car garage and no changes to the parking area are proposed. There is ample room in the driveway to accommodate the additional required parking stall. Existing screening along the east property line should sufficiently screen the driveway without the need for additional landscaping. The Planning Department recommends the Board consider requesting the petitioner remove the curb cut on Walnut Street in the interest of public safety and maintain landscaping along the eastern lot line adjacent to the driveway for screening purposes.

IV. COMPREHENSIVE PLAN

The surrounding neighborhood offers a diverse range of land uses and housing sizes. In accordance with *The Comprehensive Plan*, accessory dwelling units would add to this diversity. The subject site is approximately 1/2 mile from three village centers and is located on an MBTA bus route. *The Comprehensive Plan* encourages the location of additional housing units in areas that are well served by public transportation as is the case with this site.

V. TECHNICAL REVIEW

A. Technical Considerations.

The Zoning Review Memorandum, dated July 20, 2011 (**SEE ATTACHMENT "A"**), provides an analysis of the proposal with regard to zoning. The petitioner must seek relief to allow for an accessory apartment on a 14,881 lot in the Single Residence 2 zone, and for a waiver of required screening for parking.

VI. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum the petitioner is seeking the following reliefs:

- Section 30-8(d)(2), Table 30-8, to allow an accessory apartment on a 14,881 lot in the Single Residence 2 zone
- Section 30-8(d)(1)h), 30-19(m), to allow for a waiver of required parking landscape screening

VII. PETITIONERS' RESPONSIBILITIES

The petitioner should consider removing the curb cut on Walnut Street.

**ATTACHMENTS:**

<b>ATTACHMENT A:</b>	ZONING REVIEW MEMORANDUM DATED JULY 20, 2011
<b>ATTACHMENT B:</b>	ZONING MAP
<b>ATTACHMENT C:</b>	LAND USE MAP
<b>ATTACHMENT D:</b>	PROPOSED DRAFT BOARD ORDER



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Department of Planning and Development  
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**Attachment "A"**

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Candace Havens  
Director

## ZONING REVIEW MEMORANDUM

Date: July 20, 2011

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official  
Eve Tapper, Chief Planner for Current Planning ET

Cc: David Barsky, architect representing applicant  
Candace Havens, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: **Request to allow an accessory apartment**

Applicant: Mark Shoham	
Site: 308 Homer Street	SBL: 64007 0033
Zoning: SR2	Lot Area: 14,881
Current use: Single-family dwelling	Proposed use: Single-family dwelling with an accessory apartment

### Background:

The subject property consists of a 14,881 square foot lot improved with a single-family dwelling. The applicant proposes to legalize an existing accessory apartment located in a portion of his walk-out basement.

The following review is based on plans and materials submitted to date as noted below.

- Floor plan showing proposed accessory apartment, David Barsky, Architect, unsigned and unstamped, dated 4/6/11
- Site plan, VTP Associates, Surveyor, unsigned and unstamped, dated 5/24/11
- Email from David Barsky stating the total area of the building and the area of the accessory apartment, dated 7/13/11

**ADMINISTRATIVE DETERMINATIONS:**

1. The applicant must meet the dimensional requirements for accessory apartments of Table 30-8:

Excerpt from Table 30-8	Lot Size	Building Size
RAAP	15,000 square feet	3,100 square feet
Special Permit	10,000 square feet	2,600 square feet

The total building area is 3,200 square feet and the total lot area is 14,881 square feet. Therefore the applicant must obtain a special permit from the Board of Aldermen per section 30-8(d)(2).

2. Section 30-8(d)(2)a) requires that an accessory apartment must be at least 400 square feet and no more than 1,200 square feet or thirty-three percent of the total building size, whichever is greater. The applicant's plans show that the total area of the accessory dwelling unit is 685 square feet, therefore meeting this requirement.
3. Per Section 30-8(d)(1)h) and 30-19(d)(19) an additional off-street parking stall is required for an accessory apartment. The applicant's site plan shows three parking stalls, two located in the garage facing Homer Street and one on the driveway in front of the garage.
4. Section 30-8(d)(1)h) also requires that the parking facility have screening in the area between the parking space required for the accessory unit and the nearest side lot line sufficient to minimize the visual impact on abutters. The applicant must comply with these landscaping requirements or have them waived by obtaining a special permit from the Board of Aldermen, per Section 30-19(m).
5. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Use</i>	<i>Action Required</i>
§30-8(d)(2), Table 30-8	Allow an accessory apartment on a 14,881 lot in the SR2 zone	S.P. per §30-24
§30-8(d)(1)h), §30-19(m)	Provide the required parking landscaping or obtain a waiver	S.P. per §30-24



# Zoning Map

## 308 Homer St.

*City of Newton,  
Massachusetts*

**Legend**

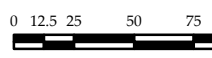
- Single Residence 2
- Open Space/Recreation
- Public Use
- Building Outlines
- Surface Water
- Property Boundaries



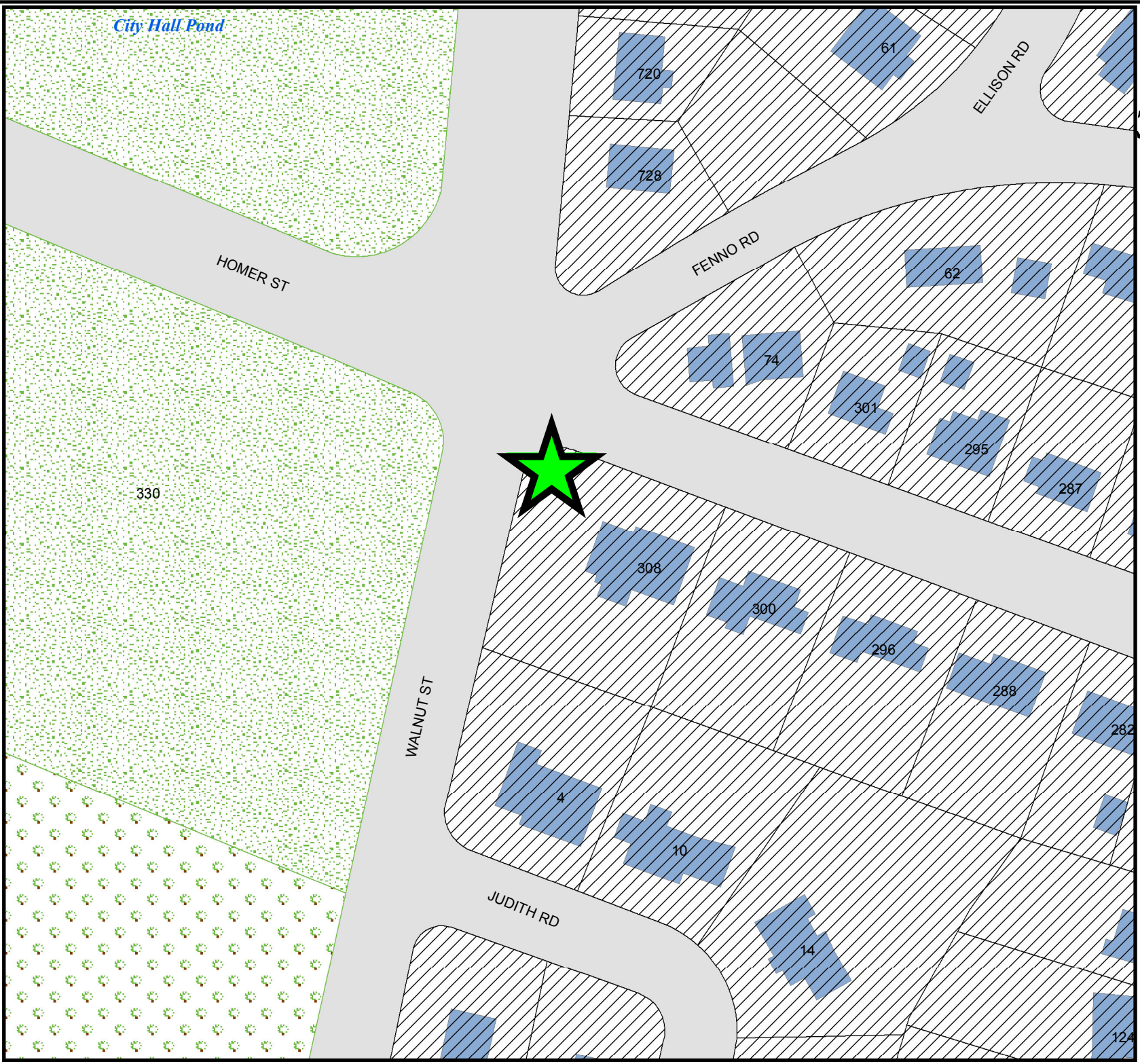
**Attachment "B"**

The information on this map is derived from the City of Newton's Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for their intended purpose. City departments will not be held responsible for approving applications based solely on this map.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Setti D. Warren  
GIS Administrator - Douglas



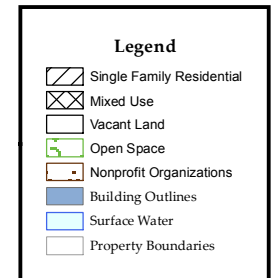
Map Date: October 07, 2011





# Land Use Map 308 Homer St.

*City of Newton,  
Massachusetts*

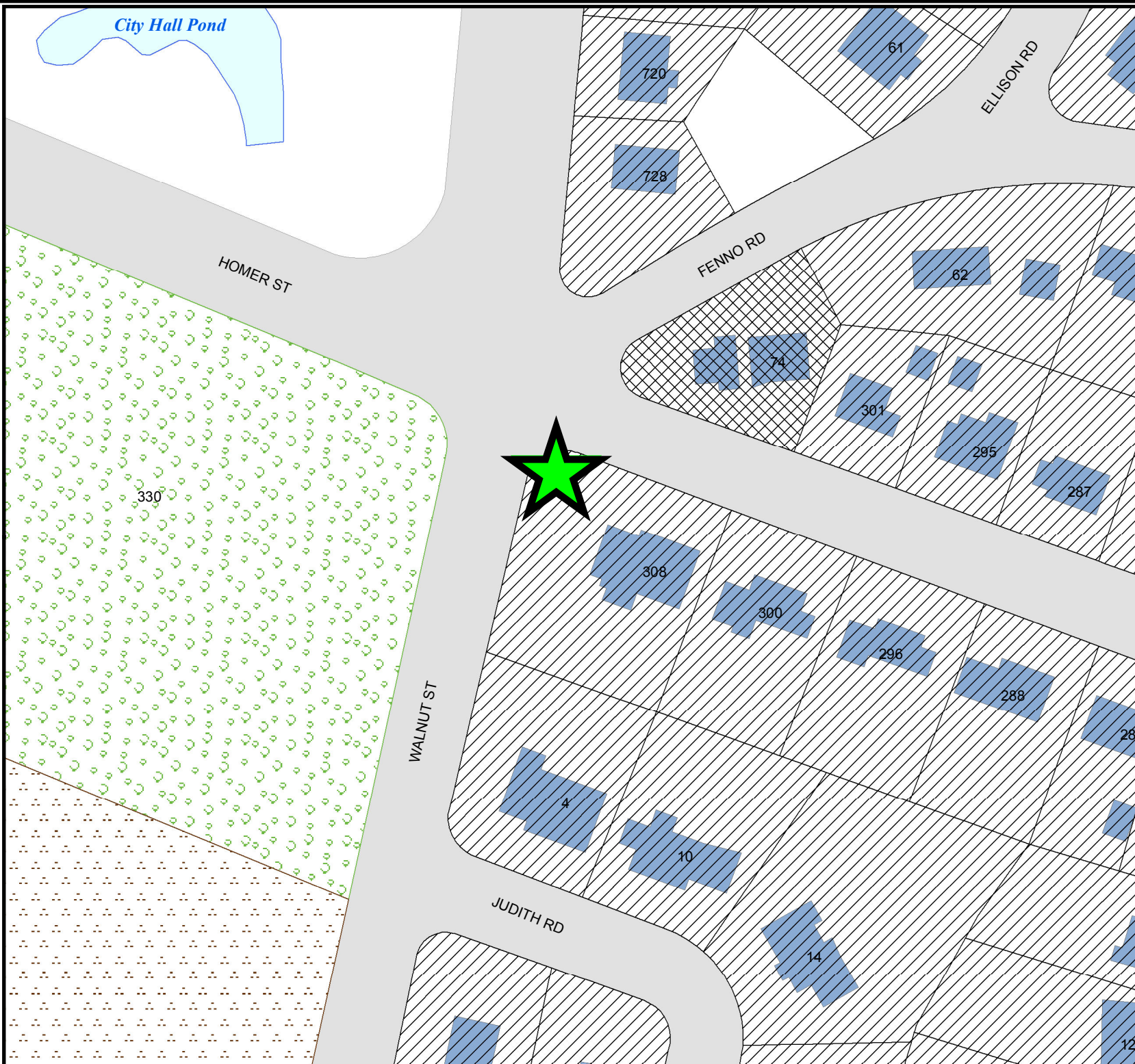


Attachment "C"

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Map Date: October 07, 2011





## Attachment "D"

DRAFT

#248-11-105-

09(2)

CITY OF NEWTON  
IN BOARD OF ALDERMEN

~~November-October 17, 2010~~2011

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to ~~allow-legalize~~ an accessory apartment in an existing single-family dwelling, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Ted Hess-Mahan:

1. The proposed accessory apartment is an appropriate use in this location and will not adversely affect the neighborhood for the following reasons:
  - a. The ~~addition of the~~ accessory unit ~~will~~ does not require changes to the exterior of the structure.
  - b. Convenience and safety of vehicular and pedestrian movement within the site to adjacent streets will not be adversely impacted as a result of the ~~proposed~~ accessory apartment.
  - c. The addition of an accessory apartment is consistent with the *Newton Comprehensive Plan* and will increase the diversity of housing options in Newton.
2. The proposed waiver to required parking landscaping is appropriate as existing screening along the eastern property line should sufficiently screen the driveway without the need for additional landscaping.

PETITION NUMBER:

~~#248-11-105-09(2)~~

PETITIONER:

~~Yanping Sun~~Mark Shoham

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LOCATION: ~~87 Woodward Street, Ward 5, Section 5264, Block 17, Lot 37-33, containing approximately 1214,786-881 sq. ft. of land~~ 308 Homer Street, Newton, MA

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OWNER: Mark Shoham Yanping Sun

ADDRESS OF OWNER: 308 Homer Street 87 Woodward Street, Newton, MA 02461 02459

TO BE USED FOR: Addition of an accessory unit apartment within the an existing single-

family dwelling

CONSTRUCTION: Wood-framed

EXPLANATORY NOTES: Section 30-8(d)(2), Table 30-8 to allow an accessory apartment in a legal one-family owner-occupied residence on a 14,881 sq. ft. lot in the SR2 zone; Section 30-8(d)(1)h, 30-19(m), to allow for a waiver of required parking landscape screening

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ZONING: Single Residence 2 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed and maintained consistent with:

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- Site Plan, Sun Residence, 87 Woodward Street, Newton, MA, Accessory Unit, Sheet SE 1, dated June 22, 2009 and revised March 1, 2010, stamped by Benjamin Abrams, Professional Engineer,
- First Floor Plan, Sun Residence, 87 Woodward Street, Newton, MA, Accessory Unit, dated June 22, 2009, Sheet A-2,

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- Topographic Site plan, Newton, MA, Showing Existing Conditions at #308 Homer Street, prepared by VTP Associates Inc., not signed or stamped, dated 5/24/11
- In Law Apartment Plan, showing proposed accessory apartment, David Barsky, Architect, not signed or stamped, Revised 4/6/11

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2. The property must be owner-occupied and the owner must submit a yearly affidavit attesting to this condition per Section 30-8(d)(2) of the City Zoning Ordinance.

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3. The petitioner shall close the curb-cut onto Walnut Street.

4. The petitioner shall maintain landscaping along the eastern property line to help screen the driveway from abutters.

~~5. The petitioner shall maintain the existing chain link fence along the driveway. The petitioner shall install, at her sole expense, landscape screening along the chain link fence only in accordance with section 30-19 (i) (1) a) of the city zoning ordinance chapter 30. The petitioner shall consult with the owner of 95 Woodward Street regarding the type, size, and location of the landscape screening to be installed. Once installed, the owner of 95 Woodward Street shall assume all responsibility for the maintenance of this landscape screening.~~

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~~6.5. No building occupancy permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:~~

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a. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.

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b. filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.

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~~c. Provided proof that the property is owner-occupied as well as an affidavit attesting to the owner's residency at the property.~~

~~d. Obtained a written statement from the Director of Planning and Development that confirms the building permit plans are consistent with plans approved in Condition #1.~~

~~e. Submitted a final landscape plan for review and approval by the Director of Planning and Development and by the Newton Director of Urban Forestry showing the addition of landscape screening on 95 Woodward Street along the chain link fence. Such plan shall also indicate where snow storage areas will be located on the subject property. Subject to condition to #2 above.~~

~~7. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:~~

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~~a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.~~

~~b. Installed landscape screening in accordance with Condition 2 or complied with Condition 4(e).~~

~~c. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format, including a certification to the Commissioner of Inspectional Services.~~

d. \_\_\_\_\_

e. ~~The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to the installation of landscaping as required in Condition 2 provided that the petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining work to secure installation of such landscaping.~~